

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:09-CR-516 (CEJ)
)	
AARON W. DUNCAN,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

Pursuant to 28 U.S.C. § 636(b), the Court referred all pretrial matters in this case to United States Magistrate Thomas C. Mummert, III, for determination and recommended disposition, where appropriate. On November 17, 2009, Judge Mummert issued an order denying the motion to strike surplusage filed by defendant Aaron W. Duncan. The defendant filed timely objections on November 25, 2009. The Court is required to review *de novo* the proposed findings and recommendations of the magistrate judge as to objection has been made. 28 U.S.C. §636(b)(1).

In his objections, Duncan incorporates by reference the arguments he made in support of his motion to strike surplusage from the indictment. These arguments were fully addressed by the magistrate judge. It is evident that Duncan disagrees with the adverse ruling on his motion. However, he does not point to any error in Judge Mummert's factual findings or legal conclusions with respect to the circumstances under which irrelevant, prejudicial or inflammatory language may be stricken from an indictment pursuant to Fed. R. Crim. P. 7(d).

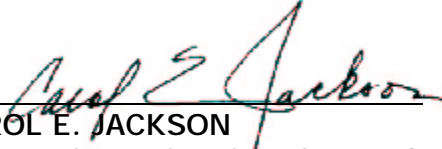
Moreover, the Court finds that the language Duncan objects to is relevant to the charges of fraud alleged in the indictment. Further, Duncan will suffer no prejudice by retaining the language in the indictment. It is likely that information regarding the alleged victims' employment or military status and the circumstances in which Aaron met the alleged victims will be disclosed through testimony at trial.

Finally, if necessary to avert any prejudice to the defendant, the Court may choose not to read or provide a copy of the indictment to the jury.

Accordingly, for the foregoing reasons,

IT IS HEREBY ORDERED that the Memorandum of United States Magistrate Judge Thomas C. Mummert, III, is sustained, adopted, and incorporated herein.

IT IS FURTHER ORDERED that the motion of defendant Aaron W. Duncan to strike surplusage [Doc. 32] is denied.


CAROL E. JACKSON
UNITED STATES DISTRICT JUDGE

Dated this 29th day of December, 2009.